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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,166	03/07/2001	Siegfried Schmidt	Bromhead 28	4314

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EXAMINER

CRAWFORD, GENE O

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary

Application No.

09/801,166

Applicant(s)

SCHMIDT ET AL.

Examiner

Gene O. Crawford

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-32 is/are rejected.
- 7) ☒ Claim(s) 33-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 2, 2003 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24, 27 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Klimeck et al.

The toggle bar link assembly disclosed by Klimeck et al. includes all the claimed features and in particular includes: toggle bar sockets 13 arranged at the sides of the pans 2, 3, open to the side, a toggle bar 4 having a shaft and two heads 14 joined in one piece the shaft being smaller in cross section each head 12 having a locking lug 14 to secure the toggle bar 4 in the sockets via a detachable securing element 17, the toggle bar having a first plane of symmetry Z and second plane of symmetry and the

Art Unit: 3651

toggle bar sockets having a first plane of symmetry in which they are formed mirror symmetrically and second plane of symmetry in which the pans 2, 3 are arranged and jointed to each other (figure 3); the locking lugs 14 and toggle bar heads 12 on both shaft ends are formed identical to each other (figure 3); the toggle bar socket 13 having side parts provided with notches for acceptance of securing elements 16 as broadly claimed; the toggle bar sockets including cast parts 2A, 3A; and the toggle bar sockets being identical to one another in all the abutment joints of the pans (figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klimeck et al. in view of Hauschopp et al.

With regard to claim 4, the toggle bar link assembly disclosed by Klimeck et al. includes all the claimed features but does not disclose the toggle bar tapers outwards and downwards from the plane of symmetry or the toggle bar head. However, this appears to be an obvious design choice and expedient in view of Hauschopp et al. Hauschopp et al. disclose the broad teaching of providing a toggle bar 46 wherein the toggle bar tapers outwards and downwards from the plane of symmetry or the toggle

Art Unit: 3651

bar head (figure 3). It would have been obvious to one of ordinary skill in the art to provide the toggle bar of Klimeck et al. taper outwards and downwards from the plane of symmetry or the toggle bar head such requiring the mere choice of an art recognized design for a toggle bar for connecting pans of a mining machine as taught by Hauschopp et al.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klimeck et al. in view of Hahn et al.

With regard to claim 11, the toggle bar link assembly disclosed by Klimeck et al. includes all the claimed features but does not disclose a fastening rib of the rear side of the toggle bar socket. Hahn et al. disclose the broad teaching of providing a toggle bar link assembly (figure 3) wherein the toggle bar socket 18 has on its rear side a fastening rib 13 for positive engagement of the channel section 9. It would have been obvious to one of ordinary skill in the art to provide the toggle bar socket of Klimeck et al. include on its rear side a fastening rib to facilitate a secure engagement of the toggle bar link assembly to the conveyor channel section as taught by Hahn et al.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klimeck et al. in view of Steinkuhl et al.

The toggle bar link assembly disclosed by Klimeck et al. includes all the claimed features but does not disclose the shaft of the toggle has a waist. However, this appears to be an obvious design choice and expedient in view of Steinkuhl et al. Steinkuhl et al. disclose the broad teaching of providing a toggle bar for a conveyor pans with a shaft 21 that has a waist (figure 4). It would have been obvious to one of

Art Unit: 3651

ordinary skill in the art to provide the toggle bar of Klimeck et al. include a waist such requiring the mere choice of an art recognized design for a toggle bar for connecting pans of a mining machine as taught by Steinkuhl et al.

Allowable Subject Matter

8. Claims 33-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: a toggle bar link assembly including the unique features of (a) 'a toggle bar socket having wall sections having open cut-outs semi-circular in cross section'; and (b) 'an assembly tool including a handle and tool plate having indexing noses on the side of the tool plate away from the handle' in combination with the rest of the claimed language are not taught or fairly suggested by the prior art.

Response to Arguments

10. Applicant's arguments with respect to claim 24 have been fully considered but are deemed unpersuasive. Applicant argues Klimeck does not disclose the toggle bar socket 13 is symmetrical about a plane of symmetry which corresponds to the joint between the pans. However, Klimeck does disclose the socket is symmetrical about a plane of symmetry corresponding to the joint between the pans as can be seen in the figures. Applicant supports his argument by referring to elements 7 and 8 of the pans 2,

Art Unit: 3651

3 in the Klimeck reference as being a part of the toggle bar socket. However, applicant's interpretation of the reference is not tenable in view that elements 7 and 8 are not a part of the toggle bar socket 13, but instead are arranged along the joint between the pans. Applicant's claims refer to a toggle bar socket that is symmetrical in two planes and Klimeck discloses just that with its toggle bar socket 13. It is therefore not understood why applicant would argue that the socket is not symmetrical based on elements that are not even a part of the socket disclosed by Klimeck. The examiner does agree that the pans 2, 3 are not symmetrical about the plane of symmetry corresponding to the joint between the pans but applicant has not claimed such a difference. Furthermore, the prior art discloses several examples of toggle bar link assemblies where the pans are symmetrical along the plane of symmetry corresponding to the joint between the pans.

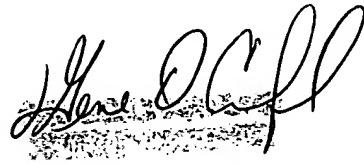
Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 703/305-9733. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 703/308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3651

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-1113.

A handwritten signature in black ink, appearing to read "Gene O'Connell", is written over a rectangular area of the document.

gc

September 11, 2003